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JUN - 7 2006

In re Application of	:	
BITSCHE et al.	:	DECISION ON PETITION
Application No. 09/540,201	:	
Filed: March 31, 2000	:	
Attorney Docket No. 038738.48731US	:	

This is a decision on the petition under 37 C.F.R. § 1.181, filed June 15, 2005, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to respond to the non-final Office action within the shortened statutory period of three months from the mailing date of March 11, 2003.

Petitioner states that he was informed on April 15, 2005 that the application was abandoned and that a Notice of Abandonment had been mailed December 5, 2003. Petitioner further states that the Notice of Abandonment was mailed to an incorrect address and that a change of correspondence address was filed on August 8, 2001. A copy of the change of correspondence address and the date-stamped postcard receipt is submitted as evidence of receipt in the U.S. Patent and Trademark Office.

Petitioner further states that he has no recollection of a message left by the examiner referred to in the Notice of Abandonment and this is evidenced by the subsequently filed status request letters. Status request letters were filed on December 30, 2003, June 29, 2004 and March 29, 2005.

A review of the written record indicates that the non-final Office action was returned by the United States Postal Service as undeliverable mail. The record also indicates that the Notice of Abandonment mailed December 5, 2003 was also returned by the United States Postal Service as undeliverable mail.

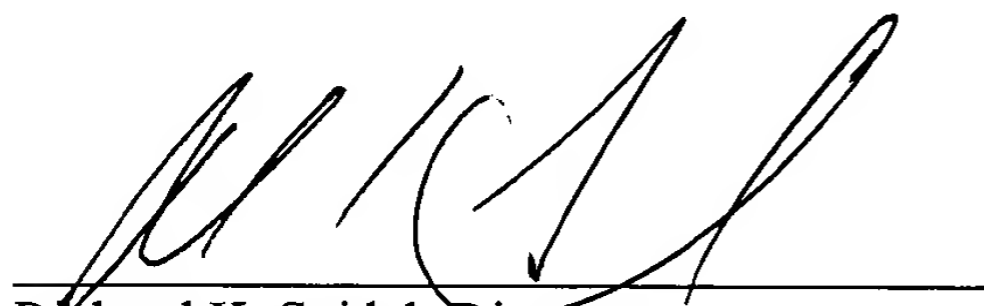
MPEP § 707.13 states the Office policy with regards to returned Office actions. Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. The examiner should use every reasonable means to ascertain the correct address and forward the action again, after stamping it "remailed" with the date thereof and redirecting it if there is any reason to believe that the action would reach applicant at such new address. If the Office action was addressed to an attorney, a letter may be written to the inventor or assignee informing him or her of the returned action. The period running against the application begins with the date of remailing. *Ex parte Gourtoff*, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924).

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. The failure of the examiner to ascertain the correct correspondence address and to remail the non-final Office action was insufficient to hold the application abandoned.

The change of correspondence address filed August 8, 2001 has been entered.

The application file is being forwarded to Technology Center 2800 support staff for remailing the non-final Office action. The shortened statutory period for response set therein will be reset to run from the date that the Office action is remailed. Extensions of time are available under 37 CFR § 1.136.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

A handwritten signature in black ink, appearing to read 'R. Seidel', is written over a horizontal line.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components